

REMARKS

Claims 1-12 are pending in this application. Claim 3 has been canceled. Claims 1, 4-7, and 9 have been amended. Claims 13-16 have been added without the addition of any new matter.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being unpatentable over Hoffer (U.S. Patent No. 5,799,151). Claims 2, 5, and 8-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffer. Claims 3-4, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffer in view of Official Notice. Claims 6-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffer in view of Housel et al. ("Housel") (U.S. Patent No. 5,909,569). Applicants respectfully traverse these rejections, and request allowance thereof in the continuation prosecution application for the following reasons.

The Claims are Patentable Over the Cited References

Claim 1 is not anticipated by Hoffer

Claim 1 stands rejected under § 102(b) in view of Hoffer. Claim 1 has been amended to incorporate the subject matter of Claim 3 which has been rejected in view of Hoffer and Official Notice.

As admitted in the Action, Hoffer does not disclose the recited feature of the terminal including a circuit for detecting power-on of the terminal, and for automatically activating a communication circuit to transmit power-on information to an information

processing center.

To disclose this feature, the Action takes Office Notice that this feature is well-known in the art by making, without support of documentary evidence, an exemplary reference to a legacy system using conventional terminals. Applicants strongly contend that Office Notice has not been taken properly in accordance with MPEP § 2144.04 as Office Notice has been taken without support of documentary evidence. In accordance with this section, Official Notice is only to be taken in very limited circumstances as it should be judiciously applied. Further, in accordance with this section, Office Notice unsupported by documentary evidence should be taken only where the facts asserted are capable of instant and unquestionable demonstration as being well-known.

Applicants strongly contend that this burden of showing instant and unquestionable demonstration of this feature being well-known in the art has not been met by the Action. Further, this MPEP section specifically requires that assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. Certainly, the recited information collecting system using a plurality of terminals communicating with a processing server is a specialized field, and an exemplary reference to a legacy system having conventional terminals, unsupported by documentary evidence, does not serve to

make the recited feature instantly and unquestionably well-known as required to meet this burden. Therefore, Applicants strongly require that documentary evidence be presented to support the Office Notice being taken of this recited feature to maintain the current rejection, or else the rejection should be withdrawn in accordance with this section.

Currently, Official Notice has been improperly taken (without required documented evidentiary support) making the claimed feature of the terminal including a circuit for detecting power-on of the terminal, and for automatically activating a communication circuit to transmit power-on information to an information processing center patentably distinct and non-obvious from the cited references.

Claims 2, 5, and 8-11 are not made obvious by Hoffer

Claims 2, 5, and 8-11 stand rejected under § 103(a) in view of Hoffer. Hoffer fails to disclose the features recited in these claims. As admitted in the Action, Hoffer fails to disclose the recited feature of this claim as amended such as the terminal including a circuit for detecting power-on of the terminal, and for automatically activating a communication circuit to transmit power-on information to an information processing center. Further, Official Notice has not been taken properly as contended above as documented evidentiary support has not been presented to make the recited feature instantly and unquestionably well-known in the art

making the claims non-obvious and patentably distinct from the cited references.

Claims 3-4, and 12 are not made obvious by Hoffer and Official Notice

Claims 3-4, and 12 stand rejected under § 103(a) in view of Hoffer and Office Notice. As admitted in the Action, Hoffer fails to disclose the features recited in these claims. And as contended above, Official Notice of the recited feature has been improperly taken by asserting facts without documented evidentiary support making the claims patentably distinct and non-obvious from the cited references.

Claims 6-7 are not made obvious by Hoffer and Housel

Claims 6-7 stand rejected under § 103(a) in view of Hoffer and Housel. As admitted in the Action, Hoffer fails to disclose the features recited in these claims. And as contended above, Official Notice of the recited feature has been improperly taken by asserting facts without documented evidentiary support making the claims patentably distinct and non-obvious from the cited references. Further, Housel solely discloses a terminal emulation differencing system and makes no mention of the recited feature of the terminal including a circuit for detecting power-on of the

terminal, and for automatically activating a communication circuit to transmit power-on information to an information processing center thus making the claimed invention patentably distinct and non-obvious from the cited references.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Clint A. Gerdine (Reg. 41,035) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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